87-1282

86-1103 AND 86-1198

Supreme Court, U.S.
FILED
JAN 3 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER 1987

ROY WILLIAM TEAGUE; MAYCE LOWERY
dib / a GOLDEN CABLE CO.
Petitioner

vs.

B. E. & K COMMUNICATIONS, INC.
AND
B. E. & K CONSTRUCTION COMPANY
MEDIA GENERAL CABLE OF FAIRFAX, INC.
Respondents

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

MAYCE LOWERY
4502 BELFORD ROAD
FAYETTEVILLE, N.C. 28304
919-868-4467

January 26, 1988

QUESTIONS PRESENTED FOR REVIEW

1. Did the District Court allow Respondents' legal counsel special privileges at the pre-trial conference, and deny the same privileges to Petitioners by allowing Respondents additional time to file discovery, and refusing the same time to Petitioners for Discovery (Respondents to answer interrogatories of Petitioners) as required by the Constitution (Fourteenth Amendment, Equal Protection of the laws)?

2. Did the District Court error by allowing Petitioner Mayce Lowery to remain a Pro Se Plaintiff in this action after the Court received Mayce Lowery's sworn deposition in which legal Counsel stated that Mayce Lowery could not read or write?

3. Did the District Court deny Petitioner Mayce Lowery her Constitutional Rights (Fourteenth Amendment, Equal Protection of the laws) by denying her the opportunity to participate in her own trial and by ignoring her during the trial?

4. Did the District Court allow Pro Se Plaintiff Roy Teague to act as Petitioner Mayce Lowery's attorney during the trial as alleged by Respondents' legal Counsel in his informal brief submitted to the Court of Appeals for the Fourth Circuit even though Roy Teague is not an attorney and this action would be a violation of state and federal statues?

5. Did the District Court error by not allowing Roy Teague to complete his testimony and cover vital evidence that was essential to the trial?

6. Did the District Court error by not requiring witnesses to appear in Court and testify after these witnesses had been properly subpoenaed and served as required by Rule 45 (c) of Federal Rules of Civil Procedure and the Constitution (Sixth Amendment, have compulsory process for obtaining witnesses)?

7. Did the District Court error by allowing legal Counsel to determine the Exhibits of evidence that the jury would receive for review in violation of Equal Protection clause of the Fourteenth Amendment?

8. Did the District Court Judge error by refusing to sent Petitioners' Exhibit 17 (Petitioners' Liability Insurance Policy) to the jury room after the jury requested this vital document of evidence that had been covered in testimony and was vital to

the jury in deciding the amount of Award to Petitioners?

9. Did the Court of Appeals for the Fourth Circuit error by not rendering a decision on violations by District court of Rule 45 (c) of Federal Rules of Civil Procedure and Sixth Amendment (having compulsory process for obtaining witness), withholding vital evidence from jury by District Court and allowing Respondents' legal Counsel to determine what evidence would be sent to jury (Fourteenth Amendment, Equal Protection of the Laws), and deny Petitioner Mayce Lowery the opportunity to participate in her own trial (Fourteenth Amendment, Equal Protection of the Laws)?

10. Did the Court of Appeals for the Fourth Circuit error by accepting Respondents' informal Brief in direct

violation of the Appeals Court time for filing Order issued by the Court, allowing Respondents to file several days late and violate the Equal Protection clause of the Fourteenth Amendment?

11. Did the Court of Appeals for the Fourth Circuit error by giving substance to Respondents' informal Brief when that Brief contained numerous false statements that Respondents knew or had reason to know that these statements were false at the time Respondents' attorney filed Respondents' informal Brief, and the Court failed to take action against Respondents' legal Counsel for these false statements in Respondents' informal Brief?

12. Did the Court of Appeals for the Fourth Circuit error by attempting to deny the receipt of Petitioners' informal Brief on September 3, 1986?

13. Did the Court of Appeals for the Fourth Circuit error by concluding Petitioners were terminated for unsatisfactory work performance when trial transcript proved Petitioners' work performance was above average?

14. Did the trial transcript presented to the Court by the Court Reporter contain numerous omitted statements that were vital to a proper review of this case by the Court?

15. Did the District Court error by granting a Motion for Directed Verdict before all the evidence had been presented as required by Rule 50 (a) of FRCP, Motion for Directed Verdict made at close of opponents evidence?

16. Did the District Court discriminate against Petitioner Mayce Lowery because she was an American Indian, in violation

of the Equal Protection clause of the Fourteenth Amendment?

17. Did the District Court and Court of Appeals for the Fourth Circuit conspire to deny Petitioners a fair, just, and impartial trial and proper review of that trial, or were the numerous errors committed by the District Court and Appeals Court due to negligence?

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FEDERAL STATUTES

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FRCP Rule 50 (a) .....vi, A 19

OPINIONS AND JUDGMENT BELOW

The District Court granted a Motion to strike based on the premise that two Respondents did not sign the contract and dismissed the second claim for Relief because this case did not concern the sale of goods or services for fraud (A 1).

The District Court granted a Motion for Directed Verdict by Respondents based on the promise that the contract did not obligate Respondents to give Petitioners any work (A3).

Said Orders and Judgments were affirmed on Appeal by the Fourth Circuit Court of Appeals (A5) and rehearing was denied (A10).

JURISDICTION

The Order of the United States District Court for the Eastern District of Virginia, Alexandria Division granting defendants Motion To Dismiss was entered on April 18, 1986, (printed in the Appendix A, page A 1, A 2), and the Judgment and Order of the Court granting defendant's Motion for Directed Verdict was entered on July 29, 1986, (printed in the Appendix A, page A 2 through A 6). Timely filed Appeals made to the United States Court of Appeals for the Fourth Circuit were denied on October 13, 1987, (printed in Appendix A, page A 7 through A 14). A timely filed Petition for Rehearing was denied on November 19, 1987, (printed in Appendix A, page A 15 - A 16).

The jurisdiction of the Court is invoked pursuant to 28 USC 1254 (1).

CONSTITUTIONAL PROVISIONS AND

FEDERAL STATUTES

Sixth Amendment, U.S. Constitution (Appendix A, page A 17)

Fourteenth Amendment, Section 1, United States Constitution (Appendix A, page A 17)

Federal Rules of Civil Procedure, Rule 45 (c) (Appendix A, page A 18)

Federal Rules of Civil Procedure, Rule 50 (a) (Appendix A, page A 19)

STATEMENT OF THE CASE

Petitioners filed a Complaint in the United States District Court for the Eastern District of Virginia, Alexandria Division, requesting a jury trial and alleged a Negligent Breach of Contract and Unfair and Deceptive Trade Practices by the Respondents. Petitioners filed in United States District Court under the Constitutional Provision of Diversity of Citizenship under Article III, Section Two, of the United States Constitution.

Petitioners entered into a verbal agreement with Respondents in January 1984, in which Petitioners would work as sub-contractors. Petitioners were informed that they would have at least two years work on the job in question and Petitioners should earn at least $100,000.00 per year. Petitioners were

assured that they would be treated fairly. With this understanding, Petitioners borrowed and invested about $50,000.00 in order to perform work. After purchasing the necessary equipment, Petitioners reported for work on May 7, 1984. After Petitioners reported for work, they were informed by Respondents that they must sign the contract in question, or they could not work. Petitioners were forced to sign a totally unfair and deceptive contract. Petitioners worked diligently when given the opportunity, but Respondents agent continued to file false reports about Petitioners and would not give Petitioners work. Petitioners believe they were harassed and eventually terminated because they would not pay Respondents' agent for work. Due to the false statements by Respondents,

Petitioners were unable to secure future work.

Petitioners contacted Respondents in person, by telephone, and by mail. Respondents told Petitioners that a thorough investigation into their termination would be conducted, and Petitioners would be treated fairly. Respondents never conducted any investigation, and Petitioners were forced to file a Civil Complaint in order to seek justice.

Petitioners are not lawyers, and they could not financially afford to hire legal Counsel. Petitioners were forced to proceed Pro Se.

Petitioners attended a Motion Hearing on April 18, 1986, in which the Court dismissed two Respondents and the Second Claim for Relief. After the Hearing,

Judge Bryan informed Mr. Brown that he had heard some good things about his client. Petitioners were concerned that someone had influenced the Judge's decision, that the Judge was premature in his ruling, and Petitioners filed a Notice of Appeal as their right by law.

Petitioners and Respondents attended a pre-trial conference. At the conference, Judge Bryan allowed Respondents additional time to finalize his Discovery, but denied the Petitioners additional time in order that Respondents would be required to answer Petitioners Interrogatories. Petitioners should have been given the same rights and privileges extended to Respondents by the Court.

Court was held on July 29, 1986. At the trial, Petitioners were denied any opportunity of a fair trial by the Judge.

Petitioners subpoenaed witnesses as required by Rule 45 (c) of FRCP, a copy of subpoenas and signed receipts were sent to the District Court to eliminate problems. The Judge ruled that the postal service was not a good way to serve a subpoena, and he would not require witnesses to appear. Without witnesses, Petitioners' case was damaged.

During the trial, the Court stopped Roy Teague in the middle of his testimony, the Judge depended on Respondents' legal Counsel to determine what was part of the case, the Judge did not give Petitioner Mayce lowery the opportunity to participate in her own trial as he did for Respondents and Roy Teague, the Court allowed Respondents' legal Counsel to decide what Exhibits of evidence the jury would receive. Petitioners believe the

Court allowed a Motion for Directed Verdict before Roy Teague concluded his evidence and Petitioner Mayce Lowery was never recognized by the Court.

The jury made a special request from the jury room for Petitioners' liability insurance policy, but the Judge denied this request even though that evidence was vital to the case. The jury returned a verdict in favor of Petitioners, but the Award was totally unfair because of Judge's prior rulings. Petitioners filed a Timely Appeal to the Court of Appeals for the Fourth Circuit.

From the filing of the Notice of Appeal to the Petition for Rehearing was denied, Petitioners have faced numerous efforts by the District Court and Court of Appeals to have this Appeal dismissed for lack of prosecution. The District Court

lost docket fees for several days, it took two checks. The Appeals Court would not acknowledge the receipt of Petitioners' Informal Brief, 86-1193, on September 3, 1986, until about sixty days later and two letters to the Court. The Appeals Court allowed Respondents' legal Counsel to file their Informal Brief in direct violation of Court Order, and their Brief (86-1193) contained numerous false statements that the Court ignored. The Appeals Court failed to address the violation of Federal Statutes and Constitutional issues pertaining to violations by the District Court. The Appeals Court ruled that Petitioners were terminated for unsatisfactory performance, which is contrary to the trial transcript. Petitioners have alleged numerous errors

in the trial transcript, but the Appeals Court ignored these serious allegations.

Petitioners have alleged from the beginning that they did not receive a fair trial and review of that trial because of a conspiracy. The Courts have made every effort to assist the Respondents, and ignored the rights of Petitioners.

REASON FOR GRANTING CERTIORARI

The entire course of action taken by Respondents was a deliberate and successful attempt to damage the Petitioners. Due to Respondents negligent breach of contract and unfair and deceptive trade practices in dealing with Petitioners, as evidenced by the trial, Respondents were forced to seek any avenue to prevent Petitioners from receiving a fair trial.

The handling of this case by the District Court was a clear example of Respondents' influence. The District Court allowed Respondents every unfair advantage requested. The District Court refused to recognize Mayce Lowery during the trial, the Court stopped Roy Teague in the middle of his testimony to prevent the evidence on damages, the Court refused to

require subpoenaed witness to appear at the trial, the Court allowed Respondents to decide what evidence that the jury was to receive, and the Court withheld vital evidence from the jury, after the jury had made special requests.

The Appeals Court for the Fourth Circuit was aware of the above allegations, but refused to address the issues. The Appeals Court allowed Respondents to file Briefs late, and Briefs contained numerous false statements. The Appeals Court was made aware of the false statements in Respondents' Brief, and that the trial transcript contained numerous omitted statements. The Appeals Court ruled Petitioners were terminated for unsatisfactory performance, a ruling that is a direct contradiction of the trial

transcript. The Appeals Court made numerous attempts to have Petitioners Appeal dismissed for lack of prosecution, but Petitioners anticipated the actions by the Courts and submitted documents twice and by certified mail.

Petitioners contend that the Courts have conspired to deny them their guaranteed rights under the Constitution, and the Courts have ignored Federal Statutes in an effort to damage Petitioners case.

CONCLUSION

Petitioner respectfully submits that this Court should grant Certiorari for the reasons set forth herein.

Respectfully submitted,

Mayce Lowery

Mayce Lowery, Pro Se
4502 Belford Road
Fayetteville, NC 28304
(919) 868-4467

CERTIFICATE OF SERVICE AND OF MAILING

I hereby CERTIFY that I have this day forwarded forty (40) copies of this Petition for Writ of Certiorari to the United States Supreme Court by placing copies of same in a properly addressed package to:

Clerk of The Supreme Court
of the United States
Supreme Court Building
1 First Street, N.E.
Washington, DC 20543

and copies to counsel for Respondents, to -wit

Mr. Orran Lee Brown
Christian, Barton, Epps,
Brent, & Chappell
1200 Mutual Building
909 East Main Street
Richmond, Virginia 23219

by depositing same in the United States Mail, first class, this 29th day of January, 1988.

Mayce Lowery

Mayce Lowery Pro Se
4502 Belford Road
Fayetteville, NC 28304
(919) 868-4467

APPENDIX "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

ROY WILLIAM TEAGUE, et al.,	*	
Plaintiffs,	*	
V.	*	CIVIL ACTION NO. 86-227-A
MEDIA GENERAL CABLE OF FAIRFAX, INC., et al.,	*	
Defendants.	*	

ORDER

For the reasons stated from the bench, it is hereby ORDERED that:

1. The motion of the plaintiffs to amend the complaint is granted.

2. The motion of the defendants to strike the complaint is denied.

3. The motion of the defendants Media General Cable of Fairfax, Inc., and

B.E. & K. Construction Company to dismiss is granted.

4. The motion of B. E. & K. Communications, Inc., to dismiss the second claim for relief is granted.

\A. V. Bryan, Jr.
United States District Judge

Alexandria, Virginia
April 18th, 1986

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

ROY WILLIAM TEAGUE AND MAYCE LOWERY, d/b/a GOLDEN CABLE COMPANY	*	JUDGMENT IN A CIVIL CASE
V.		
B. E. & K. COMMUNICATIONS, INC.	*	
		CASE NUMBER C/A86-227-A

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that judgment is hereby entered in favor of the plaintiffs, Roy William Teague and Mayce Lowery, d/b/a Golden Cable Company, against the defendant, B. E. & K.

Communications, Inc., in the amount of $3,031.34 in accordance with the verdict of the jury.

July 29, 1986 — G. Ray Old
Date — Acting Clerk

(By) Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

ROY WILLIAM TEAGUE AND MAYCE LOWERY, d/b/a GOLDEN CABLE COMPANY	*	
Plaintiffs,	*	
V.	*	CIVIL ACTION NO. 86-227-A
B. E. & K. COMMUNICATIONS, INC.	*	
Defendant.	*	

ORDER

Upon consideration of the motion of the defendant for a directed verdict made after the plaintiffs had finished presenting their evidence, the court being of the opinion, in light of the plaintiffs' concession that their contract with the defendant did not obligate the defendant to give them any work, that there can be no damage claim during the ninety day termination period provided for

in the contract, but that there remained an issue whether there were any unpaid amounts owed the plaintiffs for the period they did work for the defendant, it is hereby

ORDERED that except for the claim evidenced by plaintiff's Exhibit 37 for $11,673.05, the motion for a directed verdict is granted, and the foregoing ruling disposing of the defendant's counterclaim, it is further

ORDERED that the counterclaim of the defendant is dismissed.

A V Bryan, Jr.
United States District Judge

Alexandria, Virginia
July 31st, 1986

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 86-1103

ROY WILLIAM TEAGUE;
MAYCE LOWERY, d/b/a
GOLDEN CABLE CO.

Plaintiff - Appellant

v.

B. E. & K.
COMMUNICATIONS, INC.

Defendant - Appellee

and

MEDIA GENERAL CABLE OF
FAIRFAX, INC., B. E. & K.
CONSTRUCTION CO.

Defendant

No. 86-1193

ROY WILLIAM TEAGUE;
MAYCE LOWERY, d/b/a
GOLDEN CABLE CO.

Plaintiff - Appellant

v.

B. E. & K.
COMMUNICATIONS, INC.

Defendant - Appellee

and

MEDIA GENERAL CABLE OF
FAIRFAX, INC., B. E. & K.
CONSTRUCTION CO.

Defendant

Appeals from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Chief District Judge. (C/A No. 86-227-A)

Submitted: May 28, 1987 Decided: Oct 13, 1987

Before RUSSELL, PHILLIPS, AND SPROUSE, Circuit Judges.

(Roy William Teague and Mayce Lowery, Appellants Pro Se. Michael Willis Smith, Christian, Barton, Epps, Brent & Chappell, for Appellee.)

PER CURIAM:

This is an appeal by Roy Teague and Mayce Lowery from a jury verdict in their favor of $3031.34. Teague and Lowery seem to challenge every aspect of their trial, from each individual evidentiary ruling to the integrity of the district court judge who tried their case; while Teague admits he had "half a trial," Lowery insists that she was denied any trial at all.

Teague and Lowery went into business as the golden Cable Company seeking to secure contracts as a subcontractor installer of cable television cable. Teague and B. E. & K. Communications entered into a subcontracting agreement in May 1984 under which Golden Cable's work and, except for a withheld reserve fund, B. E. & K. Communications would pay Golden Cable for the work performed. While the

agreement contained a 90 day termination clause, the agreement did not guarantee Teague any minimum number of projects.

Golden Cable's performance quickly proved to be unsatisfactory, and B. E. & K. Communications fired Golden Cable in August 1984.

In March 1986 Teague and Lowery filed suit against B. E. & K. Communications, and others, seeking $10,000,000 in compensatory damages for "lost profits or revenues" and an additional $10,000,000 in punitive damages. Teague and Lowery also claimed unspecified amounts as unpaid amounts of bills submitted to B. E. & K. Communications for work Golden Cable had completed.

Prior to trial the District Court dismissed all of the defendants who were not parties to the subcontracting

agreement; B. E. & K. remained as the sole defendant. At trial, after the close of evidence, the District Judge granted a directed verdict to B. E. & K. on all claims except Teague and Lowery's claim that Golden Cable had performed $11,673.05 of work for which it had not been paid. The District Court concluded that Golden Cable was guaranteed no work during the 90 day termination period and also could collect no damages for "lost profits or revenues" beyond the 90 day period. The jury returned a verdict of $3031.34 for Teague and Lowery on the remaining issue. Teague and Lowery appeal.

Teague and Lowery have failed to raise even a colorable issue on appeal. The jury verdict in their favor is not "'untoward, inordinate, unreasonable[,] or outrageous.'" Arnold v. Eastern Air

Lines, Inc., 681 F.2d 186, 201 (4th Cir. 1982) (quoting Grunenthal v. Long Island Railroad Co., 393 U.S. 156, 160 (1986)), cert. denied, 460 U.S. 1102 (1983). We therefore affirm it. Teague and Lowery's challenge to the entry of the partial directed verdict is likewise without merit. After reviewing the evidence de novo, and in the light most favorable to the non-moving party, Gairola v. Virginia Department of General Services, 753 F.2d 1281, 1285 (4th Cir. 1985), we find no reasonable inference that could have supported Teague and Lowery's theory that they were entitled to any expectancy damages. Teague and Lowery's other objections to the District Court's rulings are likewise without merit.

We dispense with oral argument because this appeal is frivolous.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Nos. 86-1103
86-1193

ROY WILLIAM TEAGUE, et al., Appellants,

versus

B. E. & K.
COMMUNICATIONS, INC., Appellee,

and

MEDIA GENERAL CABLE OF
FAIRFAX, INC., et al., Defendants.

On Petition for Rehearing with Suggestion for Rehearing in Banc.

ORDER

The appellant's's pro se petition for rehearing and suggestion for rehearing in banc were submitted to this Court. As no member of the Court requested a poll on the suggestion for rehearing in banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and suggestion for rehearing in banc are denied.

Entered at the direction of Judge Sprouse, with the concurrence of Judge Russell and Judge Phillips.

For the Court,

John M. Creacen
CLERK

UNITED STATES CONSTITUTIONAL AMENDMENTS

AMENDMENT VI: COMPULSORY PROCESS FOR OBTAINING WITNESSES

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT XIV, SECTION 1: EQUAL PROTECTION OF THE LAW

All persons born or naturalized in the United States and subject to the

AMENDMENT VI: COMPULSORY PROCESS FOR OBTAINING WITNESSES

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT XIV, SECTION 1: EQUAL PROTECTION OF THE LAW

All persons born or naturalized in the United States and subject to the

jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FEDERAL STATUTES

FEDERAL RULES OF CIVIL PROCEDURE, RULE 45 (C), SERVICE

A subpoena may be served by the marshal, by his deputy, or by any other person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to

such person and by tendering to him the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered.

FEDERAL RULES OF CIVIL PROCEDURE, RULE 50 (A), MOTION FOR DIRECTED VERDICT: WHEN MADE; EFFECT

A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right so to do and to the same extent as if the motion had not been made. A motion for directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for

directed verdicts. A motion for a directed verdict shall state the specific grounds therefor. The order of the court granting a motion for a directed verdict is effective without any assent of the jury.